

Police Vol. 2.

DEFENCE
OF THE
POLICE BILL:
IN ANSWER TO A
CHARGE
DELIVERED BY
W. MAINWARING, ESQ.

Sessions of the Peace held for the County of
Middlesex in September 178

RESPECTFULLY SUBMITTED TO THE
Rt. Hon. The CHANCELLOR of the EXCHEQUER.

PACEM te poscimus omnes,
Turne, simul PACIS solum inviolabile PIGNUS.

VIRGIL

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Journal of the American Statistical Association, 1937, 32, 223-255.

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JOURNAL OF

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TO THE RIGHT HON.

WILLIAM Pitt,
&c. &c.

IT is the full persuasion of the Public that you will not suffer a second Session to elapse without making the promised reform in the Police. The *present system* was, in a late debate, pronounced *to be infamous*; and every one knows it to be weak and insufficient. The history of the last winter renders a provision for the next, a measure absolutely necessary. The short-fighted policy of hanging has been tried, and that of transportation, which is only one degree better, is now called for.

Is there to be no end of expedients for diminishing the number of His Majesty's subjects? Are death and transportation to continue the only instruments of executive power in this country, while *vigilance* and *prevention*, which would prevent the necessity for both, are wholly disregarded? The present Government have given us better hopes. The Solicitor-General's Bill of last year promised a plan of prevention and security. The Irish Par-

liament

liament have adopted that plan, *verbatim*; it was pronounced by the Lord Chancellor and Chief Justice of that Kingdom to be the best Bill that had been seen in that House, and its regulations to be perfectly consistent with the law of the land, and the spirit of the constitution.

After this, we cannot be induced to believe that the Metropolis, for which it was originally designed, should be deprived of its benefit.— That it should be the last of His Majesty's dominions to receive the protection of a systematic and temperate Police, is sufficiently disgraceful.

The following Letters are collected from a Newspaper. As they seem to place in a proper view the defects of the present Police, and the corrections intended by the late Bill, they may very properly be presented to the public eye at this crisis, when a Bill is expected to be speedily introduced into the House of Commons.

They are submitted more particularly to your consideration, as the person on whom every plan of reform is to depend for its best support.

A

D E F E N C E
O F T H E
P O L I C E B I L L.

T O

WILLIAM MAINWARING, Esq;
CHAIRMAN OF THE MIDDLESEX SESSION.

L E T T E R I.

S I R,

January, 1786.

ANY animadversion upon a solemn Charge delivered to a Grand Jury by a Judge on the Bench, is, I confess, singular; but when a Magistrate, availing himself of his situation, chuses to mix observations, that are, by his own acknowledgment, foreign to the business of the Court; when he takes upon him, in an address to a Grand Jury, to pronounce a bitter Philippic on the whole body of Justices, and passes

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general

general imputations on political measures; he seems no longer to expect the protection of the Bench. You, Sir, have gone a step further, and by *printing* your Charge, have fairly submitted to a tribunal almost as great as your own; I mean, the judgment of the Public.

Your publication, however, has been somewhat tardy. A Charge delivered at the September session does not make its appearance till the eve of the January session, and then is circulated with great caution and some partiality. The thing itself, according to my information, has undergone such corrections, as to become rather a pamphlet upon the same subject with your Charge, than the Charge itself; which is an additional consideration to make it a fair object of public discussion.

The great design of this laboured Charge is certainly to prevent any establishment of the intended Police; in order to which, you aim at enforcing the following topics:—First, that the Police Bill was in itself improper; and secondly, that the present laws are adequate to the preservation of the peace, if duly executed.

I shall beg leave to make some remarks upon the manner in which you have treated these two topics, beginning with that which you seem to think by much the most important.

The grave face with which you vouch the authority of Justices and Aldermen against the Police Bill, may perhaps become a gentleman who is at the

the head of the Quarter Session; but persons who found their pretensions to gravity on different considerations, will not suffer their own opinions to be out-faced with such affectation. It is well known, Sir, what sort of meeting of the Justices of Middlesex that was, to which you allude; how *maturely* they *considered* the plan of Police; and in what manner they *expressed their disapprobation of the very principle of it*. However numerous and however *respectable* that meeting was, sure I am that the latter description was not warranted, at least by the *examination* or *consideration* they gave to the Bill: nor could the former description qualify them, or any other set of men, for such an undertaking at all. In point of fact, there was no examination or consideration whatever. I speak from information as good as that you received respecting the Surrey Justices, when I say that, after the substance of the Bill had been opened and commented upon by *you*, as Chairman, and certain resolutions were proposed, they passed of course; not one person taking the trouble to say a syllable in favour of the measure. Indeed a measure whose object was to deprive many gentlemen present of great emoluments, and all of some supposed importance, was not likely to have a *numerous* body of voluntary advocates. The Ministry, however, judged wisely in not making a party, as you know they easily might, if they had so pleased, even among the very persons whose conduct was the object of refor-

tion: the whole body of Justices was therefore left to the impulse of their own imaginations, and they acted accordingly.

As you mislead your readers in stating the opinion of the Middlesex Justices where you were *present*, so are you misled yourself, not to say worse, in what you say concerning the City. It is known to all persons in this town, and was known long before your Charge in September, that the resolutions to which the City of London had come, with such fatal precipitation, were formed on the perusal of a mangled copy of the Bill, which had been communicated to them by a mistake: to this copy, and not to the Bill brought in, or ever intended to be brought into the House, did their resolutions and their petition to the House apply. This must have been known to you, who, as I remember, joined Mr. Hammett in the conversation which arose in the House concerning the differences between the real Bill and this false copy. The City came to no other resolutions, nor to the very time when I am now writing is their opinion upon the Police Bill known to the Public. This being the fact, known to yourself, and known to the whole town, I was astonished to find you assert roundly, that "the City of London are equally averse to it, and have expressed their dislike in very pointed terms." Whatsoever courage this supposed concurrence of sentiment may give your brother Justices, I believe you will not be much thanked by the citizens themselves;

selves; for I understand, that some of the most zealous and best informed among the Magistrates of that respectable city have expressed much regret, that the terms of disapprobation, which had been dictated by a mistake, should be undeservedly applied to a measure wholly unexceptionable; and that they had undesignedly been made enemies to a plan which they had not considered, nor even seen.

As to the opinion of the Surrey Justices, *that the present laws are sufficient for all the purposes of protection and security to the Public*, I have nothing to object to it at present; nor to the Noble Lord who presided at that meeting, and *who*, you say, is *confessedly one of the ablest Crown-lawyers in this kingdom*, except by protesting that it is upon no *confession* of mine.

Having recapitulated these *authorities* against the Police Bill, you add, what seems to follow very oddly, “It is not our province, at this time, to deliberate on the necessity or propriety of that Bill.” It certainly is a short way of controversy to conclude from *authority*, rather than from argument; and this method is better calculated for what is delivered *ex cathedrâ*, as your Charge was. But even a Charge loses much of its oracular credit, if its general positions are not coherent: for which reason, I think you hazard yourself in the remainder of the same paragraph. “Suffice it to say, that it has been in general disapproved of by the

very

very persons it is said to have been designed for the protection of." Now, Sir, the Justices of Middlesex and Surrey, and the Court of Aldermen, who, and who alone, even by your own account, have disapproved the Bill, do not, in my judgment, seem to be the *very persons* for whose protection it was designed; but some of them were manifestly the *very persons against whom* the Public were intended to be protected; and it was *the Public* which was to be protected by the Police Bill, whether against the open or secret plunderer, the violence of robbery, or the *peculation* of office.

This Public, which has no sinister interest, no private considerations to gratify, is not so easily roused to declare its sentiments, as those who are actuated by such motives; but its sentiments are notwithstanding known: and you may be assured, that the solicitude of those who felt an alarm at the approach of reformation, has been viewed, by the impartial Public, with equal ridicule and contempt.

After availing yourself of the authorities which you seem to think are adverse to the Police Bill, and after declaring that it was not "your province to deliberate on its propriety," you are seduced by the attraction of an observation, which you, no doubt, thought had the appearance of argument; and, because it is the only thing in your whole Charge which looks like a reason against the Police Bill, I cannot restrain from stating it. After con-

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juring the Justices to exert themselves in enforcing the present laws, you go on to say, that "should the intended Police Bill be executed diligently, as no doubt it would, while a novelty, and should the district of the Metropolis be secured, and some thieves driven out; yet what assistance would it be to those who live out of the district? Their situation," you say, "would be more alarming, and more dangerous than it is at present." P. 19.—In answer to this curious remark, I shall beg leave to put one or two questions. Suppose, Sir, *your Justices* were to exert themselves as long as diligence was a novelty, what better security would there be for a continuance of *their* endeavours, than the endeavours of those who act under the Police Bill? and what security would the country have that the short-lived diligence of the Justices would not, by driving out *some thieves*, render the situation of those who live out of the district, more alarming and dangerous than before?

The same answer will do in both cases: the thieves cannot subsist long, if at all, in the country; and if they could, it is no reason against securing the town (which at any rate is the great source of iniquity), any more than it would have been a good argument against the building of your new Session-house at Clerkenwell, to say, that such a new building would be no accommodation to the Justices of Northumberland or of Cornwall.

Not to take up any more of your time at present, I shall defer what I have further to say upon this celebrated Philippic of yours, called a Charge, till another opportunity.

I am, Sir, yours,

AN INHABITANT OF WESTMINSTER.

LETTER

L E T T E R II.

SIR,

January, 1786.

SO much for your arguments, as well as your authorities, to shew that the Police Bill was in itself improper. The other topic which you insist upon with great confidence, is grounded on an observation which, because in some respect well-founded, is likely enough to have followers; though you are greatly mistaken if you think that all, who assent to that position, agree with you in reprobating the Police Bill. "We want no new laws," say you, "we have penal laws enough already." The number of our laws is a grievance felt by every one; but every new law is not therefore to be reviled, as adding to the number: if so, an outcry might be raised against a new law, which had no other object than to methodise and simplify those already made, and which therefore was of a tendency to diminish the number, or at least the inconvenience of the old ones. It does not appear but that the Police Bill was of this nature. It might be a system of regulations for the Metropolis, to which, and to which only, the Magistrate was to look for his authority, without wearying himself in turning over the Statute-book from one end to the other.

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In fact, the Police Bill contains no novelty whatsoever; it is merely for the enactment of certain points of the old law known to every body who knows any thing, and for the appointment of proper persons, with a regular subordination of offices for the due administration of the subsisting law; and to clamour against this Bill as a new law, must shew much ignorance, or something much worse than that.

But, Sir, I do not intend to state your meaning so falsely, as to make you an enemy to all new laws. Your position is, that the present laws are adequate to the purposes of public security, *if* properly executed; and the consideration of the subject, in this hypothetical way, carries you into many observations on the present reigning enormities, the laws now in being for the prevention and punishment of them, and the inactivity of the Magistrates; the sum of which is, that “the neglect of the Justices is the principal cause of all the robberies and daring offences which happen every night and day.”—Page 13. To all this I am very ready to subscribe. But I cannot help expressing my astonishment that a person who seems to have so lively an impression of the evils to be cured, and of the want of activity in the present Magistrates, should retain any hope that a reform can be effected without the assistance of persons of a different description, who should be subjected to such sanction as would

would secure their *constant* exertions in protecting the Public.

The Public have long thought that the present set of Magistrates have been endured with great patience. You, in your Address, seem to think the same; though, like a true Christian preacher, you, in tenderness for them, rather make it a ground of sober admonition and exhortation to amend their future lives. Their past omissions are pictured in the most lively colours; the points in which reform is most needed are inculcated with minuteness; and you conjure them to make an *experiment* of their best endeavours to do their duty. You conclude these serious injunctions with an intimation, that after all this advice, *if* they still persist in their former ways, they would deserve, even in your opinion, "to have masters put over their heads." This menace, which at once consigned many quiet gentlemen to the secular arm of the Police Bill, seems to have been since repented of; for at the distance of three months, when this intended *experiment* had not even been attempted, and your constituents to the place of Chairman should, by your own sentence, stand convicted as unprofitable servants, to be punished or *removed* by their *masters*, it is not to be found in the printed Address which you have just circulated, and which you entitle the Address that the Justices and Grand Jury desired might be printed.

Notwithstanding, therefore, you have animadverted upon the insufficiency of the Justices as freely as their greatest enemy could have done, it plainly appears that you meant to correct them with tenderness. But your tenderness and chastisement seem to be equally thrown away: for, I would ask you, has your Charge, after the experiment of three months, produced any one endeavour at reform? Has one vagrant been prevented from becoming a robber or a strumpet? or one pickpocket from being a housebreaker? Has the door of any one receiver been watched all night? Has one public-house of ill-fame been refused its licence at the last licencing-day, or been prevented from suffering gaming or other disorders? Has the number of prisoners at the Old-Bailey decreased? Can we walk the public streets with safety? We all know that every one of these questions can be answered no otherwise than in the negative.

And yet, should a new Police Bill make its appearance this Session, these very Justices, and you at their head, will have the assurance to make representation against *unnecessary* and dangerous reforms. What lamentable remonstrances shall we hear, to save the sinking *dignity* of the antient Common-law Magistrates, who cannot fall without making a fatal breach in the constitution! This and the like parade will be supported with the repetition of what we heard last July; some of which

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has had the good fortune of being already repeated in your Charge.

We shall then be told by one, that the Justices can do all that is necessary to be done: By another, that the Vagrant Act is perfectly sufficient: By another, that caution in licensing alehouses is all that is wanted: By another—take away the fees of Justices. One, declaiming against pardons, advises to hang all thieves; another, to hang the trading Justices: One, to leave all Justice-business to gentlemen of independent fortunes; another, to professional persons, who should have liberal salaries. No, says another, they are hirelings, and *cannot* serve so well as those who act without salaries: And this I have observed to be urged most strongly by persons who have amassed great fortunes, because they never did any thing in their lives, either public or private, without being paid. These, and a thousand other imaginations, which we shall all hear too soon, will be started by the Justices, when the time arrives.

This difference of opinion is only a counterpart of the want of union and concert among the Magistrates in almost all other instances; which consideration alone makes them the most unfit persons to look to for reform and steadiness in matters of police; and shews how necessary it is that some authority should be devised to combine, direct, and controul, such a loose crowd of jarring and contending individuals.

It seems to me, that the Police Bill was framed after long experience that the Justices neither could, nor would, of themselves, reform the police of this town, as you vainly recommend, and seem to hope in your Charge; and I think it promised, with a few alterations, to correct all those evils which the Justices, by your account, had produced in the metropolis. I know, Sir, that I need not enter into a discussion of that Bill in order to apprise *you* of its merits; you know them perfectly well; and when you condescend to repeat the sentiments of the Middlesex Justices, who are said to *disapprove its very principle*, you know, as well as I, that such mysterious language is better calculated to conceal, than discover the real opinion of the speaker.

A Bill containing so much various matter, which belonged to three different articles of regulation, could not easily, even with all the analytical sagacity of the whole bench of Justices, be reduced to any *one principle*; unless indeed to that of *the public good*: and how far your brother Justices may be averse to *such a design*, you, who know them best, can form the best judgment.

But, Sir, let me request you to consider what this Bill really was. After marking the limits of the district to which it was to extend, and dividing it into nine divisions, the Bill might be considered as containing three heads of regulation—1st, the appointment of a Board of Police; 2dly, the ap-
pointment

pointment of Justices Offices in each division ; and, 3dly, the appointment of a more frequent Session.

In the Board of Commissioners of Police, it was meant the Public should enjoy, what it has never yet seen, a set of persons who were paid, and whose duty therefore it would be, to watch over the peace of the town, and, as the Act directs, "to enforce all laws which have been made for the prevention of offences against the peace, and the speedy prosecution and punishment of the same ;" which in a few words comprehends all the particulars you give in your Charge to your Justices, and a great deal more. These Commissioners would be better able to execute this trust than the Justices, for many reasons ; more particularly because they were not to be interrupted by taking examinations, or hearing and determining, as the Justices are. In order to discharge this great duty, the Commissioners were to appoint a strong patrole in each division : they were to receive intelligence from all the Justices Offices in the district ; which would make their Board an office of intelligence to the whole district. They and their officers had powers given them to search for felons, receivers, vagrants &c. analogous to those residing in Justices of Peace at common-law.

Secondly, the Justices were restrained from acting any where but at a public office, to be appointed in each division, at which some Justices were to be appointed with salaries, to be always attendant and

and accessible, to transact business; one of whom was to be resident. The residing Justice was to account to the Commissioners for all fees.

The Old Bailey Sessions and the Quarter Sessions were to be held weekly, or once a fortnight, or every three weeks, as might be thought most proper.

This is the outline of the three heads of the Bill; and the regulations thereby intended, seem to be founded on such principles as are generally admitted among all sensible and disinterested men to be right: “an active and vigilant Police—the pure and incorrupt administration of justice—and a speedy punishment of offenders.” It is not easy to determine whether all, or which of these principles it is that the Middlesex Justices have disapproved. In order to decypher the precise meaning of their *disapprobation of its principle*, it will be necessary to consider, with your leave, some points with which you are very well acquainted, and which I shall bring to your recollection in my next Letter.

I am, SIR,

Your's, &c.

AN INHABITANT OF WESTMINSTER.

LETTER

L E T T E R III.

SIR,

January, 1786.

THE acting Justices of the Peace, like all other persons who serve the Public, whether they expect it or not, are certainly paid in some way. One man is paid in solid money; another is sufficiently rewarded by the *importance and parade* of his situation; and some are glad to get both. The acting Magistrates in this Metropolis are all paid in one of these three ways.

It has happened that the direct *lucrative line* of practice, from various reasons, too well known to be mentioned, is not taken by those, who set more value upon their character than their purse; and such are contented to be rewarded with the *importance* and *parade* of acting as independent gentlemen, with a very small dividend of pecuniary compensation. Indeed I am told that some gentlemen are at an expence beyond what the fees produce, for the support of their office. Such gentlemen must feel an additional satisfaction in so serving their country; and, I take for granted, make up the balance with a proportionate set-off of importance on the other side of the account.

When the Police Bill came before this mixed body to be discussed, every one, as is usual, viewed

it with an eye as well to his present situation as to his future prospects. The gentleman who preferred the direct *lucrative line* of practice, saw nothing in this Bill that answered his purpose. To change a thriving trade for a dead salary not half its value, was a serious reformation indeed ! But gentlemen of this description, not thinking it prudent to expose themselves to suspicions of sordidness, without a hope of being much attended to, did not raise the open opposition that might be expected to a scheme so destructive to them ; and it would have been unreasonable to expect from them a concurrence in the sort of approbation given by the gentlemen I shall next mention.

The gentlemen in the second and third class, as well as those who are supposed to be driven to the necessity of balancing the account between themselves and the Public in so unprofitable a way, perceived very judiciously, that this Bill, like other schemes of reformation, had in it something good and something bad. In the appointment of Justices to act in certain offices with salaries, and without the emolument of fees, they saw something which favoured their pretensions, and seemed to promise an improvement of their situation. They saw that justice being no longer a trade, the disreputable part of the Magistracy, and the disrepute they brought upon their brethren, would instantly vanish, and that their own *importance* would have space to extend itself.—What was still better, the inde-

independent gentlemen of the second and third class might, perhaps, be an *appointed* Justice with a salary, and thus might add emolument to his importance, without tarnishing his honour.

Impressed with these ideas, it was held by the meeting of Justices (who, you know, consisted principally of persons within the two last descriptions), that the appointment of *Justices' Offices*, as above mentioned, would be a *wise* regulation: though it should be remarked, in so doing, they took not the least notice that this was a part of the Police Bill; determined not to owe any obligation to a measure which in its other regulations not only thwarted their former *importance*, but threw upon them such new burthens of duty as would perhaps more than over-balance their new-acquired salaries. This was felt more sorely by the class of curious calculators before mentioned, who, not meaning to aim at any emolument, would receive no consideration to compensate for the portion of *importance* and *parade* which they lost in having no public office of their own.

To make a due entry of all proceedings; to send regular intelligence to the Commissioners of Police; to account to *them* for their fees; to observe their directions in what manner to act in riots; to attend the Session once a-week; to act no where but at a public office;—all these, besides being restraints, carried such marks of subordination, as the Justices could not be expected to applaud. They saw with

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indignation that this new scheme of Police required a Justice to surrender a very large share of that *importance, ease, and inactivity*, which every one enjoys in the present state of nature, where there is neither dependence, connection, or responsibility; and therefore they held that the Bill(except so much as they chose to purloin, because it favoured their natural disposition and habits) was to be opposed *in toto*. The reasons of their disapprobation could not be stated with decency; some device therefore must be used to discredit the measure. This was done in general terms, which conveyed, as you are pleased to express it, a disapprobation of *its principle*.

Thus far of "the disapprobation of the very principle of the bill"—and of the principles of those very men who disapproved it: which explanation I entered into, not for *your* information, you may be sure; but as you, in your Charge to the Grand Jury, have taken occasion to instruct the Justices in their duty, I chuse to take a similar liberty in my observations on your Charge, for the purpose of informing the *Public* on points that perhaps were not thoroughly considered before. When viewed in this light, the self-denying resolution of the Justices about fees, will not appear such a symptom of purity and public spirit, as to entitle them to the credit of opposing the other parts of the Bill upon principle only.

I beg

I beg, Sir, to ask you, whether, after the *experience* of the last three * months, *you* think the present set of Justices are to be left to themselves any longer, much less to be gratified with the accommodation of a new establishment, suited to their own ideas? I mean a number of Offices, one in each division, acting wholly *independent* of each other, without any head or superintendence to facilitate a co-operation among them, upon some sort of system, for the public good? I would ask whether such an establishment would not confirm all the evils of the present lax and unconnected Magistracy, whose jealousies, envies and bickerings about the partial views of their respective Offices, are already a great cause, that the small efforts they *do* make, can never produce much benefit to the Public. That they should attempt to perpetuate and strengthen such an unmanageable and discordant mass, and that their attempt should be patronized by any person of sense and impartiality, in or out of the House of Commons, must appear astonishing and mysterious; more particularly when a scheme is brought forward, which, by collecting the abilities and endeavours of every Magistrate to one point, would infallibly lead them all to act in concert; and thus upon the basis of union, co-operation and harmony, form a system of Police that would effectually secure the person and property of the sub-

* Four months *more* have now elapsed.

ject from violence and depredation, and render the Magistrates who effected it, truly respectable.

I am, Sirs, your's, &c.

AN INHABITANT OF WESTMINSTER.

LETTER IV-

SIR,

January, 1786.

I AM inclined to think that at last you are disposed to agree with me. By circulating your printed Charge at such a critical juncture, just before the meeting of Parliament, you certainly meant to intimate to the Justices that, having made no use of the interval allowed them for amendment, their time was now come, and they must be prepared to meet the denunciation you passed upon them. Permit me, Sir, to do that for you which the tenderness of your nature would not suffer you to do completely *yourself*: former Judges have been heavily punished for mitigating a small fine to a still smaller: your compassion, on the contrary, will, no doubt, be gratefully rewarded by those who are your constituents to the Chair, and the principal among your constituents to Parliament. That your

your remuneration may not be prevented through any harsh instance of rigid justice performed by yourself, I will readily take the deed into my hands ; I shall therefore, with your leave, amend the *printed record* of your Charge by the *paper book* from which you spoke it, and shall write in black letters, that “ the Justices having been tried for “ three months * longer, and being found wanting, “ they must have *masters put over their heads*, or “ be dismissed as unprofitable servants.”

However, notwithstanding my sentence, or even your's, the Middlesex Justices, like other persons who are about to be deprived of their *ease* or *emolument*, will, I dare say, make some struggle to defeat a reformation that is to postpone both to the public good. This will be attempted under such plausible pretences as they may think will stand best. In defence of themselves they will talk of the dignity of a Justice—of the old Common-Law Magistrates—of the Constitution. As to the Bill, should it be the same as the former, they will call it a breach of the constitution—they will say it is novel to apprehend felons, &c. in the night—that breaking open houses to search for felons, &c. is unlawful—that the whole is a *French Police*—general warrants, &c. &c. &c.—that trying men once a week is inquisitorial, Star-Chamber, &c. &c. &c. In short, that “ those of his Majesty's

* They have now been tried seven months, and no amendment produced.

“ subjects

" subjects who have the misfortune to reside in
 " the district, will have no civil liberty remaining
 " after such a Bill is passed." If they chuse to
 be more concise, they will say, " The objections
 " to the Bill are so many and important, that it
 " will be unnecessary to enter into particulars ;
 " but they disapprove the very principle of the
 " Bill."

You and I know very well what all these fine things mean ; and they were so hackneyed and laughed at in the month of July, that I have no apprehension of their meaning not being perfectly understood by the Public, should they be repeated by any set of men whatsoever. All who hear such pretences, and who see such solicitude in a particular description of men, cannot fail of suspecting some private interest to be at the bottom ; and it requires no great share of discernment to discover what that private interest is. You know, Sir, that the emoluments of those who make a trade of Justice, and the importance and ease of those independent gentlemen who make a parade of it, without being of any use to the Public, are the great motives with the Justices for opposing a scheme which is to destroy both.—You know that the Officers of the Session have a like reason for disliking a scheme of reform, that, in all probability, will decrease the business of the Session ; and all have a common interest in preventing the additional trouble of holding a frequent Session. The wishes of

all these people engage their particular friends and patrons to join in the cry. It extends no farther; for except the Justices, and their immediate connections, there is not to be found an opponent to reform.

The Justices of Middlesex are not the first who have put their own ease and emolument in competition with truth and the public good, under the appearance of principle.

I remember an instance which strikes me as particularly applicable to the situation of your brother Justices and their leader, on the present occasion; and because it is in a book, which, though written for the instruction of us all, is not so often at hand as Burn's Justice, I will give you the story at length:

“ And at the same time there arose no small stir that way.

“ For a certain man, named *Demetrius, a silver smith, which made silver shrines for Diana, brought no small gain unto the craftsmen :*

“ Whom he called together, with the workmen of like occupation, and said, *Sirs, ye know that by this craft we have our wealth :*

“ Moreover, ye see and hear, that not alone at Ephesus, but almost throughout all Asia, this Paul hath persuaded and turned away much people, saying, that they be no gods which are made with hands:

“ So that not only this our craft is in danger to be set at nought; but also that the temple of the great goddess Diana should be despised, and her magnificence should be destroyed, whom all Asia and the world worshippeth.

“ And when they heard these sayings, they were full of wrath, and cried out, saying, Great is Diana of the Ephesians.

“ And the whole city was filled with confusion: and having caught Gaius and Aristarchus, men of Macedonia, Paul’s companions in travel, they rushed with one accord into the Theatre.

“ And when Paul would have entered in unto the people, the disciples suffered him not.

“ And certain of the chief of Asia, which were his friends, sent unto him, desiring him that he would not adventure himself into the Theatre.

“ Some therefore cried one thing, and some another: for the assembly was confused, and the more part knew not wherefore they were come together.

“ And they drew Alexander out of the multitude, the Jews putting him forward. And Alexander beckoned with the hand, and would have made his defence unto the people.

“ But when they knew that he was a Jew, all with one voice about the space of two hours cried out, Great is Diana of the Ephesians.

“ And when the Town Clerk had appeased the people, he said, Ye men of Ephesus, what man is there that knoweth not how that the city of the

Ephesians

Ephesians is a worshipper of the great Goddess Diana, and of the image which fell down from Jupiter.

“ Seeing then that these things cannot be spoken against, ye ought to be quiet, and to do nothing rashly.

“ For ye have brought hither these men, which are neither robbers of churches, nor yet blasphemers of your Goddess.

“ Wherefore if Demetrius, and the craftsmen which are with him, have a matter against any man, the law is open, and there are deputies; let them implead one another.

“ But if ye enquire any thing concerning other matters, it should be determined in a lawful assembly.

“ For we are in danger to be called in question for this day's uproar, there being no cause whereby we may give an account of this concourse.

“ And when he had thus spoken, he dismissed the assembly.”

ACTS, CHAP. 19, VER. 23.

Whenever Demetrius and the craftsmen attempt to raise an interested and unjust clamour against a measure that has the public good for its object, I hope they may meet with a *Town Clerk*, or some other public officer, as discreet as him at Ephesus, and that they will follow his prudent advice.

I am, Sir,

Yours, &c.

LETTER V.

SIR,

May, 1786.

THE occasion of my addressing you in this public manner, was to animadvert on the singular attack which you were pleased to make on the Police Bill of last Session. A late event has brought you once more to my mind; I mean the success of the same Bill in the Irish Parliament.

After combating your opinion and that of your brother Justices, upon the authority of my own anonymous assertions, it is but justice to you, as well as to myself, to vouch the sanction that my poor opinion has just received from the Legislature of Ireland. The Bill for the regulation of the Police of Dublin contains the whole of the Bill presented to the House of Commons last Session; together with such additional clauses as were dictated by the exigency of local circumstances. The Bill was brought into the Commons on a Monday, passed the Wednesday fe'nnight, and the following Wednesday it passed the Lords likewise; so that it went through both Houses in a fortnight and two days. The majorities with which it was supported,

ed, were as remarkable as the facility with which it passed through every debate.

This Bill, which you and your brother Justices chose to condemn, was declared by the Chief Justice of Ireland to have no enemies but *ignorance* and *prejudice*. He said it was founded on the law of the land, and the spirit of the constitution; he thought it wholly unexceptionable; and declared he should be proud to be the author of every clause in it. The Lord Chancellor discovered himself as warm an advocate in favour of the Bill, declaring it the best he had seen during the twenty years he had sat in that House. If you wish to know farther what was said in this debate, I refer you to the Irish news-papers, which are my authorities for what I have said, and may farther say on this subject.

But, Sir, this Bill did not fail of producing the same fatal effects in Ireland that it did in this country; it not only had for its opponents *ignorance* and *prejudice*, but it had also the same *hypocrisy*, *falsehood*, and *forgery*, which were practised against it here. We found men in that country, as well as this, who in other respects passed for persons of fair dealing and integrity, no sooner interpose to resist this measure, than they were instantly infected:--any thing was to be said or done, rather than not shew their malice against the Police Bill. A patriotic gentleman, of great probity and honour (upon any sub-
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ject but that of Police) told the House of Commons roundly, that Mr. Pitt withdrew the English Police Bill because the Aldermen of London disapproved it.

This was the gentleman who was so misled by his English friends as to read the petition of the City of London as an argument against the Bill. But this is a delicate passage in the history of that fatal Bill, which cannot be insisted upon without involving you in a very severe censure. You are one of those who have propagated the belief that the Aldermen of London petitioned against the Bill *really* brought into Parliament, and not against a *false copy*, which was never brought or intended to be brought in. I have already, in a former Letter, made such observations upon your conduct in that particular, that I shall now say nothing further upon it; trusting that the Irish gentlemen who have been duped by such an imposition, will resent it upon those who practised it, in the same manner in which they vindicate their honour upon other occasions.

Even should this retribution be distributed among *all* those who deserve it, the number who have been abused is so great, that I am afraid the example would be very terrible. For a great number of the citizens and freeholders of Dublin were duped into a persuasion, that theirs was a common cause with the citizens of London, and have accordingly transcribed into their petition, a smart invective out of the petition

petition of the City of London, complaining, as they thought, of the same *new* and *extraordinary* and *arbitrary Bill* which the citizens of London thought was to fall upon them.

Such was the mummery of Opposition in Ireland, and to such causes on this side the water is that farce to be attributed. I hope, Sir, that these examples will contribute to make you, and persons in public situations like you, more cautious how they give their countenance and credit to ill-founded opinions, especially if they have a dangerous tendency.

You seem to be particularly unfortunate on these public occasions. I do not doubt but it was with the best intention that you threw out an opinion in a great Assembly respecting the legality of confining convicts of a certain description in the Hulks. But this, like the good intention of those who framed the Police Bill, was made an ill use of by the very persons *for whose protection it was principally designed*. [See before, pages 5 and 6]. The convicts, when informed that the Chairman of the Session was on their side, refused to conform; they caballed, remonstrated, and were proceeding to open violence, when Mr. Campbell was obliged to interpose with that *necessary* scheme of Police, which, though *arbitrary* and *tyrannical*, is neither *new* nor *extraordinary*: some strokes of a curlass, and a straiter confinement, were the consequences of this ill-timed interpretation of an Act of Parliament.

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As far as I can collect from the very imperfect reports of the Irish debates in the news-papers, it seems, that the principal encouragement to the slight opposition there made, arose from the supposed opposition made by the City of London to the same measure, and the supposed relinquishment of it in obedience to such opposition; *both which are known by you*, and by every body who knows any thing of that Bill, *to be utterly false*. You know that the *real* Bill was not seen by the City when they came to resolutions, and petitioned against it; that the Bill was withdrawn on account of an error in parliamentary form; that it was *not in the House* when the petition from the City was presented; and that it was not resumed because the Sessions was so far advanced, as to make every one happy that they had fairly got rid of a Bill that promised much discussion.

Considering the Irish Opposition had so bright an example before their eyes as the unerring judgment of the Court of twenty-four Aldermen and the Recorder of London, I think they caught as little fire as could be expected, in such an animating and glorious cause as the defence of their civil and chartered rights. There was only one of them who exhibited any thing worthy of that venerable Court.

Mr. Grattan, when he said, that *lawyers were not the best judges of the constitution*, certainly meant no more than to retail the wit of your colleague in parliament, who defines the *constitution to be every thing that*

that is *not* law. And I would recommend to the City, if they should be disposed to give hard names to the next Police Bill, to take care how they use so vague an expression as *unconstitutional*, lest they should be construed to pass as undesigned a compliment on the new Bill, as they have an undesigned censure upon the old one.

L E T T E R VI.

S I R,

May, 1786.

TO the encomium passed on the Police Bill by the two Law Lords in the Irish House of Lords, I might add, that the Solicitor-General told the House of Commons last Session, that it had been approved by the first Lawyers on and off the Bench in Westminster-Hall.

To make this intelligible to all capacities, and do away at once the idea which designing men have propagated of the Bill containing *new* and *extraordinary* powers; let me beg you to cast your eye over the following Comparative Statement of the powers exercised as the law now stands, and those given to the Commissioners of Police by the Bill.

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As a recommendation of that Statement, I can assure you, that it is executed by no Lawyer, who might be suspected, perhaps, of making out his point from obscure authorities; but it is done by a man of plain and good sense, from no books but *Blackstone* and *Burn*, which he then looked into for the first time.

Powers vested in Justices of Peace and Commissioners of Revenue, as the law now stands.

I. Justices of Peace can apprehend, or grant warrants for apprehending, any felons or persons suspected of felony, and for searching for stolen goods, &c. &c. They are also impowered to examine, and to commit or discharge, persons so apprehended, by virtue of their own warrants. They have both a *ministerial* and a *judicial* authority.

II. A Justice's warrant to apprehend felons, or persons suspected of felony, or to search for stolen goods, authorises the officer entrusted with the execution of it, to break open doors, where the entrance

Powers proposed to be vested in the Commissioners of Police, according to the new Plan.

I. The Commissioners of Police are simply to have the power of Justices of Peace for the District of the Metropolis, as far as concerns the apprehending, or granting warrants to apprehend any felons, &c. &c. but they are not held to examine, and to commit or discharge. On the contrary, it is positively expressed, that they shall direct "all and every person or persons making " complaint, to apply to the Justice or Justices acting within the division where the cause of complaint shall have arisen." They are to possess, therefore, the ministerial, but not the judicial authority of Justices.

II. A warrant from the Commissioners of Police shall give the same authority as the warrant of any other Justice now confers ; only *with this restriction*, that *it shall not authorize breaking open doors by night* ;

entrance is denied him; and this he may do by *night* as well as by *day*.

A Revenue Commissioner's warrant authorises a Revenue Officer to enter any place, in search of smuggled goods, by *day* or by *night*; only that, if it be done at night, the presence of a peace-officer, *any* peace-officer is necessary.

III. The Justice who grants a warrant, and the officer who executes it, may justify in an action for *trespass*, though nothing be found in the house broke open. The informer, however, cannot justify in *trespass*. In the case of the King against Young and Pitts, Esqrs. the Court of King's Bench explicitly declared, that they shall always favour Justices of Peace, unless *partiality, corruption, or malice*, shall clearly appear.

IV. The hindrance of an arrest for felony is a misdemeanour, and punishable with discretionary fine and imprisonment; and a rescue after an arrest, if that arrest be for felony, is felony; if for treason, is treason; and if for *trespass*, a misdemeanour.—Resistance to a Revenue Officer with a search-warrant for tea, coffee, &c. is punishable with One Hundred Pounds penalty. If a Revenue Officer is hindered, &c. &c. by persons armed with any weapon, and tumultuously assembled to the number of eight or more, the offenders shall be transported for seven years; and the same punishment is more generally enacted, if a Revenue Officer be forcibly hindered, &c. in the execution of his duty on board of any ship.

unless in the presence, and with the assistance of a Constable, or Headborough, appointed in and for the parish, precinct, liberty, or place, where the dwelling-house, out-house, shop, warehouse, cellar, yard, or other place be situated."

In the city of London, too, the warrant must be backed by the Lord Mayor or one of the Aldermen.

III. The Commissioners of Police and their Officers are to be primarily exempted from any action for *trespass*, in which any Justice of Peace and his Officers can now justify. This indemnity, indeed, is to be extended also to the informer; but he is still to be liable to an action on the case for *malice*; and the Commissioners, and their Officers, either to an *information, indictment, or action for malice*.

IV. Resistance to the Commissioners and their Officers, rescues and attempts to rescue, are to be subjected to some severe penalty; which is left to be supplied in a Committee of the House of Commons.

V, Every Peace-Officer, &c. has authority to apprehend any person who may reasonably be suspected of having, carrying, and conveying, between sunset and sun-rise, any iron, lead, brass, &c. and such person so apprehended is held to *prove his own innocence*.—Any person offering to pawn, pledge, exchange, or sell, *any* goods, of which he shall not be able or willing to give a satisfactory account, &c. may be apprehended by *any private person* to whom he may so offer such goods; and *such private person* so apprehending him is indemnified *altogether* for having so done.

VI. Justices of the Peace are authorised by 34 Ed. III. to make all who are *not of good fame* give sufficient surety for their good behaviour. Under this description *Dalton* ranks persons suspected of lying in wait to rob or assault, night-walkers, common gamesters, suspected persons who live idly, and many others. In truth, the above statute has been construed almost without limitation; and *Burn* himself, who recommends to Magistrates not to bind to good behaviour for *evil fame* in general, seems to think it perfectly justifiable in all offences which relate to the peace.

The Vagrant Act considers as rogues and vagabonds, all persons playing or betting at any unlawful games or plays; all persons wandering abroad and begging; all persons wandering abroad and lodging in ale-houses, barns, outhouses, or in the open air, not giving a good account of themselves; and many others; and as such, *immediately* and at once subjects them to the punishment of public whipping, confinement, and hard labour, on their examination upon oath before a Justice of Peace.

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V. The Commissioners, their Officers, &c. may apprehend any person carrying or any way conveying *any* goods, which they may suspect on probable grounds to have been stolen; and if the goods shall *not be proved to have been stolen*, the Officer apprehending the person carrying them, shall be indemnified only from an action for *trespass*; while he shall still be open to *an action on the case for malice*.

VI. The Commissioners and their Officers may apprehend, and a Justice of the Peace may require sufficient surety for good behaviour of all night-walkers; persons loitering about in the day, without visible means of maintenance; persons not giving a good account of themselves; persons notoriously suspected of being thieves; and all persons gaming in public streets, bye-places, or fields; and the above persons are only to be accounted ~~rogues~~ and vagabonds, *in default of their finding sufficient surety*.

The preceding statement contains a complete illustration of all the powers to be vested in the Commissioners, which can in any manner affect the general rights and liberties of the subject. The authority proposed to be given them for enforcing the attendance of the appointed Justices, not the *County Justices*, *much less the Lord Mayor and Aldermen of London*, for compelling the assistance of watchmen, &c. and ensuring punishment of their neglect, as well as for carrying into execution certain salutary regulations respecting Pawn-brokers and others, on whom the suspicion of receiving may most naturally fall; all these points of Police can never be *dangerous*, and must be *often salutary* to the Public at large.

On the whole, it appears that these powers, the object of so much jealousy, are in most instances precisely the same, which, *together with many others*, are possessed by Justices of the Peace under the present law; that in *many respects* they are *less severe*, in the same cases; and that they are invariably thus mitigated, where in one or two points they are extended to cases analogous, though not precisely the same.

Thus far my *unlearned* friend; and if he should not quite agree with the Middlesex and Westminster Justices, it is to be hoped, that they, in their *great learning*, will attribute it to the true cause, his want of that information and discernment which they possess in such abundance.

I am, Sir, &c.

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L E T T E R VII.

S I R,

May, 1786.

ONE word more before we part. When the Police Bill was to be opposed, the language of its enemies, and particularly of yourself, as appears by your Charge, was, that we want no *new penal laws*. I should not have expected, after this, that you would have been the very man to bring in a Bill for the *better punishment* of *Horse-boilers*; for a Horse-boiler being either the thief or the receiver, is already punishable by law. What new penalty you mean to subject them to, I do not know; but the Police Bill, which has been so misrepresented by you and your brother Justices as being a new penal law, has inflicted none upon these offenders. It makes use of *vigilance* and *prevention* in this, as in other cases, and not of punishment; it merely requires those who carry on the lawful trade of Horse-boiling to take out a licence; and it trusted to the diligence of the Officers of Police for preventing the trade becoming unlawful. This was a moderation that need not perhaps be observed by you, when you commenced Legislator; but discretion should have dictated to you, that by this inconsistency of conduct you plainly shew, that your outcry against *new penal laws* was all a

pretence ; and that your solicitude was not about the penal parts of the Police Bill, but the regulating part, that affected the Justices.

But—one man can better steal *a borse*, than another look over a hedge ; and a Justice, especially a Chairman of Justices, can better broil a Horse-boiler, than a reformer of the Police roast a Justice.

I am, Sir,

Yours,

AN INHABITANT OF WESTMINSTER,

THE END.